



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/161267

PRELIMINARY RECITALS

Pursuant to a petition filed October 14, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on November 11, 2014, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly determined the Petitioner's Medicaid Deductible.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On September 25, 2014, the agency processed a letter from the Petitioner reporting that as of September 1, 2014, she started receiving \$500 per month from a trust. (Exhibit 2)

3. On September 26, 2014, the agency issued to the Petitioner a notice indicating that effective November 1, 2014 through April 30, 2015, she would be eligible for Medicaid benefits, if she met a \$2,983.98 deductible. (Exhibit 8)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on October 14, 2014. (Exhibit 1)

DISCUSSION

Social Security income is considered when determining eligibility for healthcare/Medicaid. *Medicaid Eligibility Handbook (MEH) §15.4.10*. Income from a trust is also counted as unearned income. *MEH §15.4.1* In determining eligibility there is a general deduction from reported income of \$20. *MEH §15.3.8 General Income Disregard*.

If an individual does not meet the categorically needy income limit, his income is compared to the medically needy income limit. If the individual's income falls between the two income limits, he is eligible for Medicaid. *MEH §24.1*

The categorically needy income limit is \$564.45 + actual shelter costs up to \$240.33. *MEH §39.4.1 - EBD Assets and Income Table*. The medically needy income limit for a household of one is \$591.67. *Id.*

At the time the agency issued the September 26, 2014 notice, the agency had Petitioner's rent listed as \$219.00 per month. (Exhibit 5) On October 3, 2014, Petitioner reported that she pays \$360 per month in rent; later on October 6, 2014, the Petitioner reported paying rent in the amount of \$550 per month. (Exhibits 2 and 8)

Given that the record contains three different rent amounts for the Petitioner, it is unclear whether Petitioner's rent exceeds the shelter cost limit of \$240.33. However, even if the agency relied upon the highest reported of \$550 rent, in order to give the Petitioner, the highest possible income limit, Petitioner's categorically needy income limit would be $\$564.45 + \$240.33 = \$804.70$, because rent of \$550 per month, exceeds the \$240.33 limit on shelter costs.

The agency indicated that Petitioner receives \$500 per month from a trust and receives \$713.90 per month in Social Security Retirement Income. (Testimony of Ms. Kramer) The agency also indicated that the Petitioner pays \$104.90 for Medicare premiums. (*Id.*)

Petitioner did not refute this information in her testimony. As such, her total gross income works out to be:

\$713.90 Social Security Income
+\$500.00 Trust Income
<hr/> \$1213.90 Total unearned income

If one subtracts the \$20 general income disregard we have:

\$1213.90
- \$20.00
<hr/> \$1193.90 net income

Petitioner's income of \$1193.90 is over the \$804.70 categorically needy income limit and it is over the \$591.67 medically needy income limit.

“When a Medicaid applicant is ineligible for Medicaid solely because he has income that exceeds the Medicaid medically needy income limit, he can become eligible by meeting the Medicaid deductible.” *MEH §24.2* “The Medicaid deductible is the group’s total excess monthly income over the 6 consecutive months of the Medicaid deductible period.” *Id.* “Excess monthly income” is defined as the amount above the medically needy income limit. *Id.* In this case, “income” means net income. *MEH §24.5*

In Petitioner’s case the deductible calculation should be as follows:

\$1193.90 net income - \$591.67 medically needy income limit = \$602.23 excess monthly income
 \$602.23 x 6 months = \$3613.38 Medicaid Deductible

(See *MEH §40.1*; worksheet 6)

The agency calculated the Petitioner’s deductible to be \$2,983.98. This discrepancy appears to have occurred because the agency allowed a deduction from income of \$104.90 per month for Petitioner’s Medicare premium:

\$713.90 Social Security Income
 +\$500.00 Trust Income
 -\$20.00 General Income Disregard
 -\$104.90 Medicare Premium

\$1089.00

\$1089 - \$591.67 = \$497.33
 \$497.33 x 6 months = \$2,983.98

In looking at *MEH §24* and worksheet 6, I did not see an allowance from income for Medicare premiums or any other medical/remedial expenses when calculating a Medicaid Deductible, nor did I see Medicare premiums listed as disregarded income under *MEH §15.3*. Under *MEH §15.7.3*, it states that medical / remedial expenses are considered in three situations: 1) the home and community-based waiver program, 2) patient liability calculations for residents of a medical institution and 3) cost share and Medicaid Purchase Plan premium calculations. Petitioner’s case does not fall into any of these categories. Consequently, it is found that the agency did not correctly calculate the Petitioner’s deductible.

Individuals have the right to adequate and timely notice of adverse action. *Income Maintenance Manual §3.2.3* An “adverse action” means a termination, suspension, or reduction of Medicaid eligibility or covered services. 42 C.F.R. §431.201 Before a negative action is taken by a county agency, the agency must mail an adequate notice of the action, at least ten days before the effective date of the action. 42 C.F.R. §431.211; *Income Maintenance Manual §3.2.3*

Consequently, the agency will have to issue to the Petitioner a new notice of decision, advising her that effective January 1, 2015 through April 30, 2015, her deductible will be \$2408.92 (\$602.23 x 4 months remaining in the deductible period), but her deductible amount for November and December will remain at \$944.66 (\$497.33 x 2 months).

CONCLUSIONS OF LAW

The agency did not correctly calculate the Petitioner’s Medicaid Deductible.

THEREFORE, it is

ORDERED

The agency shall issue to the Petitioner a notice of decision, advising her that for the months of November and December 2014, her deductible amount will total \$944.66 and that for the months of January 1, 2015 through April 30, 2015 her deductible amount will total \$2408.92.

The agency shall take all administrative steps to complete these tasks within 20 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of November, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 19, 2014.

Racine County Department of Human Services
Division of Health Care Access and Accountability